

EXHIBIT 1

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

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IN RE: XARELTO LITIGATION

DANIEL RUSSELL

VS.

JANSSEN PHARMACEUTICALS,

INC., et al.

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NO. 150500362

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Thursday, April 12, 2018

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TRIAL - AFTERNOON SESSION

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COURTROOM 243

CITY HALL

PHILADELPHIA, PENNSYLVANIA

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1 CROSS - KESSLER

2 works.

3 Q. Same on Tuesday?

4 A. Every day that I'm working on this, yes,
5 sir.

6 Q. How many hours did you spend working on
7 this on Tuesday?

8 A. Oh, I probably -- I don't know. I spent a
9 considerable amount Tuesday reading a lot of stuff.
10 I don't know exactly. I have to go back and look.
11 But I spent a considerable amount of time.

12 Q. Can you give the jury an estimate, 10
13 hours, 12 hours?

14 A. Maybe something like that.

15 Q. Would you say the same about Monday?

16 A. I'd have to go back and look. Yes, I take
17 this very seriously, and I was focusing on reviewing
18 a lot of documents. So I put that time in, yes.

19 Q. Same yesterday; right?

20 A. Oh, yeah, I took this very seriously.

21 Q. If we include today, we'll see, hopefully
22 we can finish today and we don't have to bring you
23 back tomorrow, but can we say you're going to make
24 about \$40,000 this week having been in Philadelphia
25 to work on this case?

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2 A. You do the math exactly correct, I mean,
3 yes.

4 Q. Now, we heard that you have been involved
5 on both the plaintiff side and the defense side.

6 That's what you testified to on direct;
7 correct?

8 A. I have been primarily on the plaintiff side
9 I think I testified to, but some on the defense side.

10 Q. I went and counted up. You've been
11 involved in 28 different litigations.

12 Does that sound right?

13 A. I don't want to -- I'll take your word for
14 it, Counselor.

15 Q. I identified four in which you've been on
16 the defense side.

17 Does that sound right?

18 A. That sounds probably the right proportion.
19 Again, I'll take your word for it. I've never
20 counted it up, but that's probably the right ratio is
21 my guess.

22 Q. So one of those was between two different
23 pharmaceutical companies. So you were on the defense
24 side, but it was against a pharmaceutical company;
25 right?

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2 A. I think it was a dispute with two
3 pharmaceutical companies, yes.

4 Q. One was between a pharmaceutical company
5 and an insurance company, and you were on the
6 insurance side; right?

7 A. That's exactly what I -- that's correct.

8 Q. Another was a med-mal-type issue, is that
9 right, where you were on the defense?

10 A. Yes, I think that was exactly, I believe,
11 involved certain pharmaceutical companies, and I was
12 for the pharmaceutical company, yes.

13 Q. And then the fourth was for a coffee
14 company, and there were allegations there should be
15 cancer warnings on coffee cups; right?

16 A. For the major coffee roasters like
17 Starbucks, for that industry.

18 Q. Those are the four where you've been on
19 this side of the defense; correct?

20 A. Those are the ones that come to mind. I
21 don't know if there was another insurance company or
22 not. I have to take a look.

23 Q. So that leaves 24 litigations where you've
24 been an expert; right?

25 A. Yes, by your math, yes. I'm not disputing

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2 any of your -- you counted it. I appreciate it.

3 Q. In all 24 of those cases you have been on
4 the side of the plaintiff; right?

5 A. Yes.

6 Q. And in all of those cases that involve the
7 pharmaceutical company, you have testified against
8 the pharmaceutical company; correct?

9 A. If the pharmaceutical company for those --
10 again, we have to go through it, but, yes, on the
11 plaintiffs, against the defendant, yes.

12 Q. That's almost all of the 24?

13 A. If the numbers are exactly what you said,
14 four out of 28, I certainly agree with that. That's
15 just the way it works.

16 Q. In any of those cases where a label was at
17 issue, you have testified on behalf of the plaintiffs
18 that the label was inadequate; correct?

19 A. You know, I've actually gone back and
20 looked. And sometimes I've been asked a question
21 whether the label was adequate, and I've actually
22 testified, I believe, you have to look at the exact
23 testimony, it's adequate.

24 Most of the time, you're right, in a
25 failure-to-warn case, if I'm testifying and I get to

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2 that stage, you are right, the label would be
3 inadequate.

4 Q. Over 20 times -- in over 20 litigations
5 against pharmaceutical companies, you have
6 consistently been on the side of plaintiffs and have
7 said that the labels at issue are inadequate; right?

8 A. Be careful. I don't think -- a number of
9 those cases are antitrust cases.

10 Q. My question is, the ones that involve a
11 label, out of those 24 against pharmaceutical
12 companies, every single time the label is at issue
13 and you have testified, you have said the label is
14 inadequate; right?

15 A. In some of those cases where the label
16 comes up, I've testified that it's adequate. I'd
17 have to go back and read the transcript, but
18 generally your point I'm not disputing. But I just
19 want to get it exactly right, Counselor.

20 Q. Now, today it's true that you're involved
21 in 10 to 15 cases, having nothing to do with Xarelto,
22 around the country where you are testifying against
23 pharmaceutical companies on behalf of plaintiffs'
24 attorneys?

25 A. I'm not sure where you get that number of

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2 10 to 15 where I'm actively involved.

3 Q. Well, let's show you where I got it from.

4 A. Sure, that I'm actively involved today.

5 Q. I'm going to show you a transcript from a
6 different litigation dated March 12, 2018, so a month
7 ago.

8 A. Okay.

9 Q. So here you were asked a month ago: How
10 many other product liability cases, not other cases,
11 how many other products or how many other products
12 are you currently acting as an expert witness for the
13 plaintiff?

14 You said: I have no idea. I'd have to
15 think that through and look at a list.

16 Ten, fifteen?

17 No. I think that's the case. Again, I
18 don't know sitting here what's accurate, what's not
19 accurate.

20 Right?

21 A. I take it that's the transcript, but I
22 don't think I'm agreeing there that it's ten to
23 fifteen. I certainly don't have a number of ten to
24 fifteen in my head that I'm actively involved in. I
25 think I answered that no.

CERTIFICATE

I, Shannan Gagliardi,
Registered Diplomate Reporter in and for the
Commonwealth of Pennsylvania, do hereby certify that
the foregoing is a true and accurate transcript of
the notes of testimony of said witness who was first
duly sworn on the date and place hereinbefore set
forth.

I further certify that I am
neither attorney nor counsel for, nor related to or
employed by any of the parties to the action in which
this trial was taken, and further, that I am not a
relative or employee of any attorney or counsel
employed in this action, nor am I financially
interested in this case.

SHANNAN GAGLIARDI
Registered Diplomate Reporter
Certified Realtime Reporter